

RESOLUTION NO. 2012-43-R

**A RESOLUTION AUTHORIZING MAYOR TO ENTER INTO A
LICENSE AGREEMENT WITH INTERGRAPH CORPORATION**

WHEREAS, the City of Madison seeks to acquire the privilege and permission to enter upon and use a portion of Intergraph's property located in Madison, Alabama, to prepare and provide recreational facilities suitable for adult softball league play and related uses and activities; and

WHEREAS, the City Council finds that entry into this Agreement serves a public interest;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA, that the Mayor is hereby authorized and directed to execute the attached License Agreement with Intergraph Corporation in the name of and on behalf of the City of Madison, Alabama, and that the City Clerk-Treasurer is hereby authorized and directed to appropriately attest the same.

READ, APPROVED, and ADOPTED this 13th day of February, 2012.

Ronica Ondocsin, President
Madison City Council
City of Madison, Alabama

ATTEST:

Melanie A. Williard, City Clerk-Treasurer

APPROVED this 13th day of February, 2012.

Paul Finley, Mayor
City of Madison, Alabama

LICENSE AGREEMENT

THIS AGREEMENT is entered into by and between the **City of Madison, Alabama**, a municipal corporation, with its principal place of business being located at 100 Hughes Road, Madison, Alabama 35758 (hereinafter "Licensee") and **Intergraph Corporation**, an Alabama corporation, with its principal place of business being located at _____, Alabama 35____ (hereinafter "Licensor").

WHEREAS, for the limited and restricted purposes hereinafter specified, Licensee seeks to acquire the privilege and permission to enter upon and use a portion of Licensor's property located at _____, Madison, Alabama, the subject property being more particularly described in the attached "Exhibit A" and depicted in the attached "Exhibit B" (hereinafter "Premises"), both exhibits being hereby incorporated by reference; and

WHEREAS, it has been determined by Licensee's governing body that entry into this Agreement is in the public interest;

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1. **Use.** Licensor hereby grants to Licensee, its agents, contractors, and participants a non-exclusive, revocable license to enter upon and use the Premises and the right of ingress and egress to and from the Premises, subject to the terms and conditions herein, for the following purpose:

To prepare and provide recreational facilities suitable for adult softball league play and related uses and activities,

(hereinafter "License").

2. **Term.**
 - a. This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the final signature shall be the date the License Agreement comes into effect.
 - b. This License shall expire December 1, 2012. Notwithstanding the foregoing, either party may terminate this License at any time by giving sixty (60) days' written notice to the other party.
3. **Consideration.** As total consideration for this License, Licensor acknowledges Licensee's status as a municipal corporation and accepts their in-kind contribution of field preparation and the removal of use-related trash from the Premises as adequate consideration for the granting of this License.

4. **Terms and Conditions Applicable to License.**

- a. This License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of way with respect to the Premises, whether or not of record.
- b. Licensee shall have the right to immediately access the Premises for the purposes of field preparation (to include, but not be limited to, mowing, seeding, fertilizing and lawful application of weed control chemicals) following final execution of this Agreement. This right to access shall be continual and uninterrupted throughout the term of this Agreement.
- c. Licenser will provide Licensee with direct, instant access to the areas of the Premises housing lighting controls, restrooms, and storage facilities. Sufficient storage will be provided for Licensee's program materials and supplies.
- d. Licensee shall have the right to access the Premises for recreational play every Monday, Wednesday and Friday beginning March 12, 2012, and ending November 26, 2012.
- e. Licensee shall ensure that trash apparently generated from use of this License is removed from the Premises following each night of play.
- f. Provided registration is timely received by Licensee, Licenser shall be allowed registration for one (1) team per league without cost to Licenser.

5. **No Transfer or Assignment.** This License is personal to Licensee. Any attempt to transfer, assign or sublease this License shall terminate it.

6. **Permits and Regulations.** Licensee shall be responsible for securing any required approvals, permits and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations.

7. **No Interference.** Licensee shall not interfere with the normal operation and activities of Licenser, and Licensee shall conduct its activities on the Premises to minimize damage to the Premises and inconvenience to Licenser, its agent, employees and invitees.

8. **Repair and Restoration.** If Licensee, its agents or contractors cause any damage to the Premises, or to Licenser's infrastructure or other property and improvements (collectively "Property") in connection with the exercise of this License, Licensee shall repair and restore the Premises and Property to their original condition, *i.e.* the condition in which such Premises were found prior to Licensee's use of the Premises pursuant to this License. Licensee shall perform the repair and restoration required hereunder prior to the expiration of this License, or within thirty (30) days of the earlier termination of Licensee's rights hereunder. In the event that repair and restoration is performed following the termination of this License, the Licensee's Indemnity and Insurance obligations in Sections 12 and 13 shall continue until repair and restoration efforts are completed as provided herein.

9. **Breach and Cure.** In the event that Licensee breaches any of its obligations under this License, Licensors shall send Licensee written notice specifying the nature of such breach. Licensee shall have ten (10) days from receipt of such notice within which to cure the stated breach. If more time is reasonably required for Licensee's performance and cure, then Licensee shall notify Licensors in writing of its proposed schedule for performance and commence performance within such ten (10) day period; thereafter, Licensee shall diligently proceed to completion. If Licensee fails to cure or to commence to cure within such ten (10) day period, then Licensors shall have the right to terminate this License immediately by serving Licensee with written notice of termination. Licensors shall have all rights and remedies available under Alabama law including, but not limited to, actions for damages and specific performance, for any breach of Licensee's obligations hereunder.
10. **Alteration in Writing.** This License supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by Licensors and Licensee.
11. **Notice.** Any notice required hereunder shall be in writing and shall be addressed as follows:

Licensee:

Mayor
City of Madison
100 Hughes Road
Madison, Alabama 35758

with a copy to:

City Attorney
City of Madison
100 Hughes Road
Madison, Alabama 35758

Licensors:

Edgar C. Porter
Executive Vice President
Intergraph Corporation
P.O. Box 240000
Huntsville, Alabama 35813

12. **Indemnification.** To the extent allowed by law, Licensee shall indemnify, defend and hold harmless Licensors, its officers, agents and employees, from and against any claims, damages, costs, expenses or liabilities (collectively "Claims") arising from Licensee's

exercise of its rights under this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons, to the extent that such Claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, partners, invitees or employees.

13. Insurance.

- a. As owner of the licensed property, Intergraph Corporation shall be added as an Additional Insured to the City of Madison's liability policy with coverage in the following amounts and subject to the following limitations:
 1. Each Occurrence Limit: \$100,000.00
 2. Aggregate Limit: \$300,000.00
 3. Such coverage is limited to the assumption of liability for claims arising under this Agreement from the sole negligence of the Licensee's agents, employees, elected and appointed officials, and volunteers.
- b. Licensee shall maintain a policy of Workers' Compensation coverage as required by Alabama law.
- c. Licensee, upon the execution of this License, shall furnish Licensor with certificates of insurance evidencing compliance with all requirements. Certificates shall provide for thirty (30) days' advance written notice to Licensor of any material modification, change or cancellation of the above insurance coverages.

14. Mutual Waiver of Subrogation. Licensee and Licensor each hereby waive any right of recovery against the other due to loss of or damage to their respective property, whether real or personal, when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils ("all risk" as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured.

15. Lien-Free Condition. Licensee shall not cause or permit any liens to be placed against the Premises or against Licensor's other property as a result of Licensee's exercise of rights under this License. In the event of the filing of any such liens, Licensee shall promptly cause such liens to be removed. In no event shall such lien removal require more than thirty (30) days.

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to execute this License Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year written below.

**City of Madison, Alabama,
a municipal corporation,**

Attest:

By: _____
Paul Finley, Mayor

Melanie A. Williard, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, and Melanie A. Williard, whose name as City Clerk-Treasurer of the City of Madison, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their respective capacities as Mayor of the City of Madison and City Clerk-Treasurer of the City of Madison, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation, on the day the same bears date.

Given under my hand this the _____ day of _____, 2012.

Notary Public

Intergraph Corporation

By: _____

Its: _____

Date: _____

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Intergraph Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the _____ day of _____, 2012.

Notary Public